



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GEORGE ASSAD, directly on behalf of  
himself and all others similarly situated, and  
derivatively on behalf of PERSHING  
SQUARE TONTINE HOLDINGS, LTD.,

Plaintiff,

-against-

PERSHING SQUARE TONTINE  
HOLDINGS, LTD.,

Nominal Defendant,

-against-

PERSHING SQUARE TH SPONSOR, LLC,  
LISA GERSH, MICHAEL OVITZ,  
JACQUELINE D. RESES, JOSEPH S.  
STEINBERG, PERSHING SQUARE, L.P.,  
PERSHING SQUARE INTERNATIONAL,  
LTD., AND PERSHING SQUARE  
HOLDINGS, LTD.,

Defendants.

21-CV-6907 (AT) (BCM)

**ORDER REGARDING GENERAL  
PRETRIAL MANAGEMENT**

**BARBARA MOSES, United States Magistrate Judge.**

This action has been referred to Magistrate Judge Barbara Moses for general pretrial management, including scheduling, discovery, non-dispositive pretrial motions, and settlement, pursuant to 28 U.S.C. § 636(b)(1)(A). All pretrial motions and applications, including those related to scheduling and discovery (but excluding motions to dismiss or for judgment on the pleadings, for injunctive relief, for summary judgment, or for class certification under Fed. R. Civ. P. 23) must be made to Judge Moses and in compliance with this Court's Individual Practices in Civil Cases, available on the Court's website at <https://nysd.uscourts.gov/hon-barbara-moses>.

It is hereby **ORDERED** that Judge Moses will conduct a status conference on **March 16, 2022 at 11:00 a.m.** No later than **March 9, 2022**, the parties shall submit a joint status letter

outlining the progress of discovery to date, proposing an expert schedule, advising the Court whether they anticipate summary judgment motions, and updating the Court as to their settlement efforts, if any. If no discovery controversies exist at that time, the parties may request that the conference be held telephonically.

It is further **ORDERED** as follows:

1. Timely Discovery. Discovery requests and notices must be served in time to allow the person served to respond, on the schedule set forth in the Federal Rules of Civil Procedure, prior to the completion date for such discovery set forth in the Civil Case Management Plan and Scheduling Order (Dkt. No. 57)<sup>1</sup> or any amended discovery scheduling order. Discovery applications, including letter-motions requesting discovery conferences, must be made promptly after the need for such an application arises and must comply with Local Civil Rule 37.2 and § 2(b) of Judge Moses's Individual Practices. Absent extraordinary circumstances, discovery applications made later than 30 days prior to the close of discovery may be denied as untimely.
2. Discovery of ESI. If they have not already done so, counsel are hereby directed to confer with one another by telephone or in person within two weeks of the date of this Order regarding potential discovery issues concerning electronically stored information (ESI). An exchange of letters or emails is not sufficient. Counsel must discuss, among other things, sources of relevant ESI; steps taken or to be taken to preserve relevant ESI; identification of appropriate custodians; ESI search and review procedures; form of production of ESI; any limitations or anticipated difficulties regarding discovery or production of ESI; cost estimates; and proposals for containing or sharing costs.
3. Discovery Applications. Discovery disputes that cannot be resolved after good-faith negotiations may be presented by letter-motion, seeking a discovery conference, in accordance with Local Civil Rule 37.2 and this Court's Individual Practices. Such applications must be made promptly after the need for court intervention arises, but in no event before the parties have met and conferred, in person or via telephone, with respect to all issues in dispute. An exchange of letters or emails is not sufficient. It is the Court's practice to decide discovery disputes at the Rule 37.2 conference, based on the parties' letters, unless the Court determines that more formal briefing is required.
4. Remote Depositions. In accordance with Fed. R. Civ. P. 30(b)(4), the Court authorizes the parties to conduct any or all depositions in this action via telephone, videoconference, or other remote means, pursuant to Fed. R. Civ. P. 30(b)(3) and

---

<sup>1</sup> The Civil Case Management Plan and Scheduling Order contains a typographical error at ¶ 6(a). The deadline for service of initial requests for production of documents is **December 17, 2021**.

(b)(4). This Order does not dispense with the requirements set forth in Fed. R. Civ. P. 30(b)(5), including the requirement that, unless the parties stipulate otherwise, the deposition be "conducted before an officer appointed or designated under Rule 28," and that the deponent be placed under oath by that officer. For avoidance of doubt, a deposition will be deemed to have been conducted "before" an officer so long as that officer attends the deposition via the same remote means (*e.g.*, telephone conference call or video conference) used to connect all other remote participants, and so long as all participants (including the officer) can clearly hear and be heard by all other participants.

5. Amendments to Discovery Rules. Counsel are strongly advised to review the current version of the Federal Rules of Civil Procedure, which were substantially amended in December 2015, before seeking judicial intervention regarding a discovery dispute. Among other things Rule 26(b)(1) has been amended to limit the scope of discovery to matters that are non-privileged, relevant, and "proportional to the needs of the case." Rule 26(g) requires counsel to sign discovery requests, responses, and objections, thereby certifying that to the best of the signer's knowledge, information and belief, formed after a reasonable inquiry, each disclosure is "complete and correct as of the time it is made," and that each request or objection is "consistent with these rules," not interposed for any improper purpose, and neither unreasonable not unduly burdensome or expensive. Rule 34(b)(2) requires the responding party to "state with specificity the grounds for objecting to the request, including the reasons," and to do so with respect to "each item or category."
6. Fed. R. Evid. 502(d) Order. The disclosure of documents or information (electronic or otherwise) subject to the attorney-client privilege, the work product doctrine, or other privilege or immunity from production shall not operate as a waiver of that privilege or immunity in this case or in any other federal or state proceeding. This paragraph shall be interpreted to provide the maximum protection permitted by Fed. R. Evid. 502(d).
7. Conferences and Hearings. All court conferences, hearings, and other proceedings before Judge Moses will be held in Courtroom 20A of the Daniel Patrick Moynihan United States Courthouse, unless the Court orders otherwise. If a proceeding takes place via teleconference, the parties must call **(888) 557-8511** on their scheduled date, a few minutes before their scheduled time, and enter the access code **7746387**. **Please treat the teleconference as you would treat a public court appearance. If a conference or hearing in another matter is ongoing, please be silent (mute your line) until your case is called.** If the proceeding takes place via videoconference, chambers will email the appropriate link to counsel in advance of the proceeding.

8. Extensions and Adjournments. Any application for extension or adjournment of the time limits, deadlines or conferences set forth above must be made by letter-motion, in accordance with this Court's Individual Practices, as soon as the need for the extension or adjournment is reasonably apparent to the party making the application. **Applications made after the expiration of the deadline in question may be summarily denied.**

Dated: New York, New York  
November 4, 2021

**SO ORDERED.**



---

**BARBARA MOSES**  
**United States Magistrate Judge**